

IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BROWARD COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: III-05-S-3A

IN RE:

CREATION OF A GENERAL MAGISTRATE  
POSITION WITHIN THE MENTAL HEALTH  
COURT SUBDIVISION OF THE CIRCUIT  
COURT CRIMINAL DIVISION

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In accordance with the authority vested in the Chief Judge by Rule 2.050, Florida Rules of Judicial Administration,

WHEREAS, this Circuit has recognized that the creation of "specialized courts" within other divisions of the Court has enhanced the expediency, effectiveness and quality of Judicial Administration;

WHEREAS, a centralized Mental Health program has been shown to increase the efficiency of the criminal court system in this Circuit, and

WHEREAS, this Circuit has recognized that the increased monitoring and supervision of defendants who are mentally ill, mentally retarded or autistic has been shown to decrease the rate of recidivism, and

WHEREAS, since this Circuit presently only has the resources to provide for the operation of the Felony Mental Health Division on a part-time basis, two days a week, and thereby due to an excessively overcrowded docket, the presiding Judge is precluded from scheduling necessary routine "status conferences" for defendants placed on Felony Mental Health Probation or Conditional Release Plans, and

WHEREAS, this Circuit has recognized that defendants who have been declared incompetent to proceed or not guilty by reason of insanity and are placed on conditional release have benefited from frequent contact with the court system, allowing in most circumstances a more expeditious process for competency restoration, and allowing for the ability to be more proactive and responsive when decompensation occurs, resulting in protection of the community as a whole, and

WHEREAS, a General Magistrate position to monitor the progress of defendants placed on Mental Health Probation or Conditional Release by the Mental Health Court Subdivision within the Circuit Court Criminal Division, as set forth in Administrative Order III-03-S-1, or subsequent related orders governing Mental Health Court, would increase the efficiency of the criminal court system as well as the quality of the supervision of these cases in this circuit, and

IT IS NOW THEREFORE

ORDERED that:

Effective January 7, 2005, if deemed appropriate by the presiding Judge, defendants sentenced to a probationary period entitled "Felony Mental Health Probation" and defendants placed on "Conditional Release" shall be sent to a General Magistrate for progress hearings as deemed necessary by the presiding Judge to be supervised for the just and efficient administration by the Mental Health General Magistrate, the following procedures are to be followed:

#### **ELIGIBILITY**

1. At sentencing, any defendant being sentenced to Felony Mental Health Probation, as set forth in Administrative Order III-02-N-1A, or subsequent related orders governing

Felony Mental Health Probation, shall be informed by the Court that his/her sentence shall include, as a special condition of probation, that the defendant may be required to report to a General Magistrate, and if so, how frequently.

2. Any defendant placed on conditional release by the presiding Judge of the Mental Health Court, as set forth in Administrative Order III-03-S-1, or subsequent related orders governing Mental Health Court, shall be advised at the time the plan is ordered, that the defendant may be required to report to a General Magistrate, and if so, how frequently.
3. Any defendant presently sentenced to Felony Mental Health Probation, as set forth in Administrative Order III-02-N-1A, or subsequent related orders governing Felony Mental Health Probation, may be referred to the General Magistrate for monitoring and supervision, as deemed appropriate by the presiding Judge of the Mental Health Court, following a hearing advising the Defendant of said requirement.
4. Any defendant presently on conditional release, may be referred to the General Magistrate for monitoring and supervision, as deemed appropriate by the presiding Judge of the Mental Health Court, following a hearing advising the Defendant of said requirement.

#### **DUTIES AND RESPONSIBILITIES OF THE GENERAL MAGISTRATE**

1. The General Magistrate shall set hearing dates in compliance with the orders of the presiding Judge of the Mental Health Court.
2. The General Magistrate shall preside over hearings to review the treatment, progress and needs of defendants who have been sentenced to Mental Health Probation.

3. The General Magistrate shall preside over hearings to review the treatment and/or competency restoration progress of those defendants placed on conditional release plans.
4. The General Magistrate shall generate a report to reflect all matters discussed at the proceedings before the Magistrate.
5. All recommendations for modifications, reprimands or violations of probation shall immediately be referred to the presiding Judge of the Mental Health Court for hearing. The General Magistrate is not empowered to and lacks legal authority to modify the conditions of probation, reprimand or violate a defendant on probation.
6. All recommendations for modifications, issues of noncompliance or violations of conditional release, shall immediately be referred to the presiding Judge of the Mental Health Court for hearing. The General Magistrate is not empowered to and lacks legal authority to modify, revoke or violate a defendant on conditional release.
7. When any party requests the reevaluation of a defendant who is on conditional release, the matter shall immediately be referred to the presiding Judge of the Mental Health Court for necessary action.

### **INELIGIBILITY**

Defendants whose cases are qualified for and assigned to the Career Criminal/Habitual Offender Section pursuant to Administrative Order No. III-99-I-1 or the Domestic Violence Court pursuant to Administrative Order No. II-01-H-4A, or subsequent related orders governing said section and court, who are either placed on Felony Mental Health Probation, as set forth in Administrative Order III-02-N-1A, or subsequent related orders governing Felony Mental Health Probation, or who are placed on conditional release

plans by said courts, shall not be transferred to the General Magistrate for monitoring or supervision.

**ADMINISTRATION**

IT IS FURTHERMORE ORDERED that General Magistrate Deborah McClosky is hereby designated as the General Magistrate assigned to the Mental Health Court Subdivision. In that capacity, General Magistrate McClosky will be responsible for assisting the Mental Health Court by monitoring the progress of defendants placed on Felony Mental Health Probation and/or conditional release. In that General Magistrate McClosky has proven herself to be learned in the field of mental health and possesses a unique understanding with respect to the needs of the mentally ill, and handles said cases accordingly, without compromising the safety of the public, the Office of the State Attorney concurs in the assignment of General Magistrate McClosky, and if for some reason General Magistrate McClosky ceases to preside over said division, any judicial replacement is subject to consultation with the Office of the State Attorney, the Office of the Public Defender and the criminal defense bar.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this the 19th day of January, 2005, nunc pro tunc to 7th day of January, 2005.

/s/DALE ROSS  
DALE ROSS, CHIEF JUDGE